

AMENDED IN SENATE AUGUST 20, 2009

AMENDED IN SENATE JUNE 24, 2009

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 307**

### **Introduced by Assembly Member Cook**

*(Principal coauthor: Senator Leno)*

*(Coauthor: Senator Benoit)*

February 17, 2009

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~~An act to add Section 653.5 to the Penal Code, relating to business licenses.~~ *An act to amend Section 290.95 of the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.*

#### LEGISLATIVE COUNSEL'S DIGEST

AB 307, as amended, Cook. Sex offenders: ~~ice cream truck operation.~~ *working with minors.*

*Under existing law, a person required to register as a sex offender who applies for or accepts a position as an employee or volunteer with any person, group, or organization where he or she would be working directly and in an unaccompanied setting with minor children on a regular basis, is required to disclose his or her registrant status, as specified. Existing law also prohibits a person required to register as a sex offender because of a conviction for a crime where the victim was a minor under 16 years of age from being an employer, employee, or independent contractor, or acting as a volunteer with any person, group,*

*or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or from having supervision or disciplinary power over minor children. A violation of these provisions is a misdemeanor.*

*This bill would specify that “working directly and in an unaccompanied setting” includes, but is not limited to, providing goods or services to minors. Because the bill would change the scope of an existing crime, it would impose a state-mandated local program.*

~~Existing law requires persons convicted of specified sex offenses to register with local law enforcement authorities and update that registration, as specified. A willful violation of these registration requirements is punishable as a misdemeanor or as a felony, as specified. Existing law requires that persons who are subject to registration be informed of their duty to register upon release from incarceration or confinement in a hospital, as specified.~~

~~This bill would make it a misdemeanor for any person who is required to register as a sex offender because of a conviction for a crime in which the victim was under 16 years of age to engage in ice cream truck vending, as defined. Because the bill would create a new crime, it would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 290.95 of the Penal Code is amended to  
2     read:

3     290.95. (a) Every person required to register under Section  
4     290, who applies *for* or accepts a position as an employee or  
5     volunteer with any person, group, or organization where the  
6     registrant would be working directly and in an unaccompanied  
7     setting with minor children on more than an incidental and

1 occasional basis or have supervision or disciplinary power over  
2 minor children, shall disclose his or her status as a registrant, upon  
3 application or acceptance of a position, to that person, group, or  
4 organization.

5 (b) Every person required to register under Section 290 who  
6 applies for or accepts a position as an employee or volunteer with  
7 any person, group, or organization where the applicant would be  
8 working directly and in an accompanied setting with minor  
9 children, and the applicant's work would require him or her to  
10 touch the minor children on more than an incidental basis, shall  
11 disclose his or her status as a registrant, upon application or  
12 acceptance of the position, to that person, group, or organization.

13 (c) No person who is required to register under Section 290  
14 because of a conviction for a crime where the victim was a minor  
15 under 16 years of age shall be an employer, employee, or  
16 independent contractor, or act as a volunteer with any person,  
17 group, or organization in a capacity in which the registrant would  
18 be working directly and in an unaccompanied setting with minor  
19 children on more than an incidental and occasional basis or have  
20 supervision or disciplinary power over minor children. This  
21 subdivision shall not apply to a business owner or an independent  
22 contractor who does not work directly in an unaccompanied setting  
23 with minors.

24 (d) *For purposes of this section, "working directly and in an*  
25 *unaccompanied setting" includes, but is not limited to, providing*  
26 *goods or services to minors.*

27 ~~(d)~~

28 (e) A violation of this section is a misdemeanor punishable by  
29 imprisonment in a county jail for not exceeding six months, by a  
30 fine not exceeding one thousand dollars (\$1,000), or by both that  
31 imprisonment and fine, and a violation of this section shall not  
32 constitute a continuing offense.

33 *SEC. 2. No reimbursement is required by this act pursuant to*  
34 *Section 6 of Article XIII B of the California Constitution because*  
35 *the only costs that may be incurred by a local agency or school*  
36 *district will be incurred because this act creates a new crime or*  
37 *infraction, eliminates a crime or infraction, or changes the penalty*  
38 *for a crime or infraction, within the meaning of Section 17556 of*  
39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*  
2 *Constitution.*

3 *SEC. 3. This act is an urgency statute necessary for the*  
4 *immediate preservation of the public peace, health, or safety within*  
5 *the meaning of Article IV of the Constitution and shall go into*  
6 *immediate effect. The facts constituting the necessity are:*

7 *In order for public safety officials to clarify the scope of the*  
8 *prohibition on specified sex offenders working in an*  
9 *unaccompanied setting with minors, it is necessary for this*  
10 *legislation to take effect immediately.*

11 ~~SEC. 1. Section 653.5 is added to the Penal Code, to read:~~

12 ~~653.5. (a) Any person required to register as a sex offender~~  
13 ~~pursuant to Chapter 5.5 (commencing with Section 290) of Title~~  
14 ~~9 of Part 1, the Sex Offender Registration Act, because of a~~  
15 ~~conviction for a crime that involved a victim who was under 16~~  
16 ~~years of age, who engages in retail ice cream truck vending, is~~  
17 ~~guilty of a misdemeanor.~~

18 ~~(b) As used in this section, “ice cream truck” shall have the~~  
19 ~~same meaning as the term is defined in subdivision (c) of Section~~  
20 ~~22456 of the Vehicle Code.~~

21 ~~(c) For purposes of this section, “ice cream truck vending” shall~~  
22 ~~include the selling, displaying, or offering to sell any item specified~~  
23 ~~in subdivision (c) of Section 22456 of the Vehicle Code from an~~  
24 ~~ice cream truck.~~

25 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
26 ~~Section 6 of Article XIII B of the California Constitution because~~  
27 ~~the only costs that may be incurred by a local agency or school~~  
28 ~~district will be incurred because this act creates a new crime or~~  
29 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
30 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
31 ~~the Government Code, or changes the definition of a crime within~~  
32 ~~the meaning of Section 6 of Article XIII B of the California~~  
33 ~~Constitution.~~